

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE**  
**CONDITIONAL USE PERMIT REPORT (#FCU-11-06)**  
**JOHN LEDYARD**  
**OCTOBER 18, 2011**

A report to the Flathead County Board of Adjustment regarding a request by John Ledyard for a conditional use permit to allow for the use of an outbuilding and non-familial employees as part of a home occupation - a catering business. The subject property is located within the Blanchard Lake zoning district and is zoned "AG-40 Agricultural".

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on November 1<sup>st</sup>, 2011 beginning at 6:00 P.M. in the 2<sup>nd</sup> floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

**I. APPLICATION REVIEW UPDATES**

**A. Land Use Advisory Committee/Council**

The proposed land use is not within the advisory jurisdiction of a specific local land use advisory committee.

**B. Board of Adjustment**

The Flathead County Board of Adjustment will hold a public hearing on the proposed land use on November 1<sup>st</sup>, 2011 beginning at 6:00 P.M. in the 2<sup>nd</sup> floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. This space is reserved for a summary of the Flathead County Board of Adjustment's discussion and decision at that hearing.

**II. GENERAL INFORMATION**

**A. Application Personnel**

**i. Applicant & Landowner**

John Ledyard  
220 Twin Bridges Road  
Whitefish, MT 59937  
[johnsangels@centurytel.net](mailto:johnsangels@centurytel.net)

**ii. Technical Assistance/Representative**

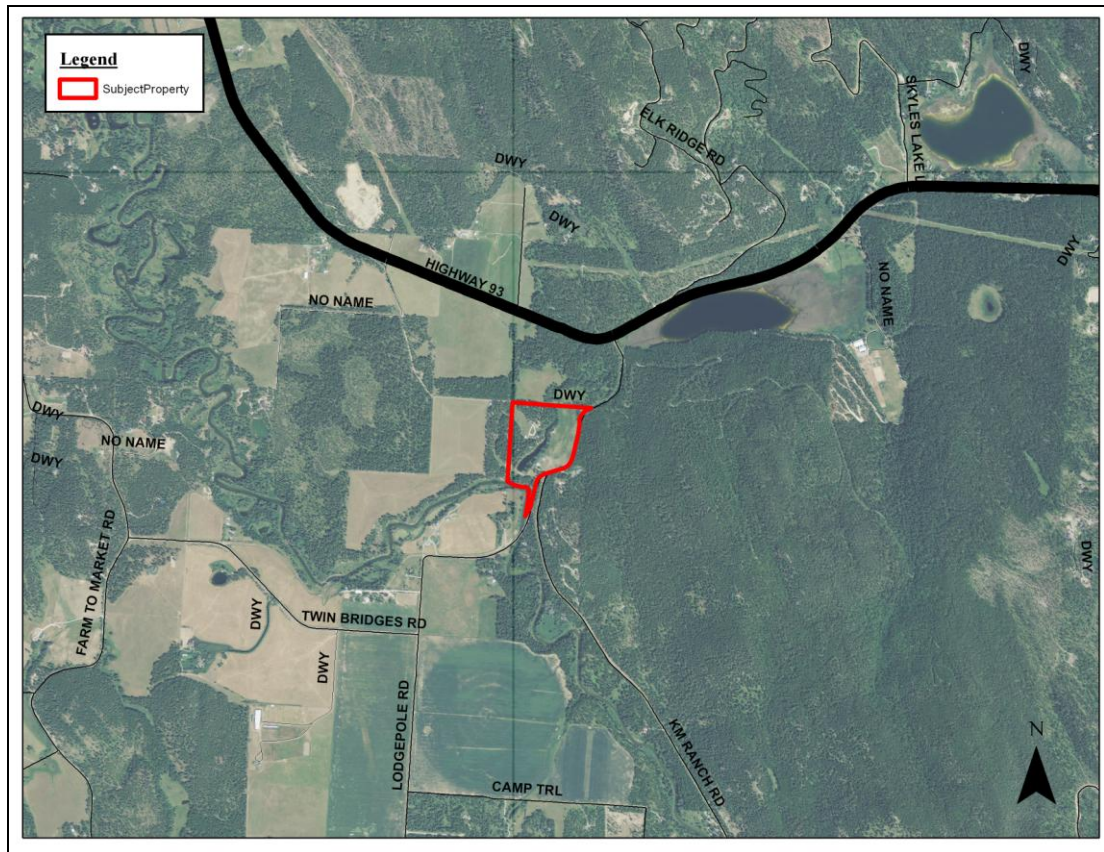
Sands Surveying, Inc.  
c/o Erica Wirtala, AICP  
2 Village Loop  
Kalispell, MT 59901  
[erica@sandssurveying.com](mailto:erica@sandssurveying.com)

**B. Property Location and Size**

The subject property sits just north of the intersection of KM Ranch and Twin Bridges Road and south of U.S. Highway 93 (see Figure 1 below). The property can

be legally described as Tract 3BH in Section 5, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana. The property is approximately 32 acres in size.

**Figure 1:** Subject property outlined in red.



### C. Existing Land Use(s) and Zoning

The property is currently developed with a single family residential dwelling (constructed in 2004), as well as a variety of accessory structures including two garages (1978 and 2004), three pole-frame lean-tos (two in 1993 and one in 1995), and a standard barn (2004). The outbuilding currently utilized as a commercial kitchen was recently constructed and does not appear on the most recent Computer Assisted Mass Appraisal (CAMA) report provided by the State of Montana Department of Revenue; however, the structure has been built and is located on the southern portion of the property, along Twin Bridges Road (see Figure 2 below). The property is located within the Blanchard Lake zoning district and is zoned “AG-40 Agricultural”, a classification intended to “*protect and preserve agricultural land for the performance of a wide range of agricultural functions. It is intended to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development*” (Section 3.05.010 FCZR).



**Figure 2:** General site plan of subject property.



#### D. Adjacent Land Use(s) and Zoning

The area surrounding the subject property is predominantly agricultural, as shown by Figure 3 below. Property to the immediate north, south and east of the subject parcel is similarly zoned “AG-40 Agricultural”, the same classification as the subject property. Property to the immediate west is zoned “SAG-10 Suburban Agricultural”, an agricultural classification allowing a smaller minimum lot size per parcel. Generally speaking, large tract rural residential and agricultural uses dominate the landscape surrounding the subject property. A couple of home occupations operating in the immediate vicinity were observed by staff on a site visit October 5<sup>th</sup>, 2011, including a woodworking shop directly east and a pottery studio to the south and east along Twin Bridges Road.

**Figure 3:** Zoning surrounding the subject property (outlined in red).



#### E. Summary of Request

On July 22<sup>nd</sup>, 2011 a zoning violation complaint was submitted to the Flathead County Planning and Zoning Office alleging a non-compliant use operating on the subject property. The complaint alleged the property owners were operating a commercial catering kitchen and event center, hosting weddings as well as holding cooking classes onsite. After investigating the complaint, a letter was sent to the property owner regarding the non-conforming use(s) alleged, and requested the property adhere to the zoning regulations in place, limiting uses on the property to those listed under the AG-40 zoning classification. An application was submitted to the Planning and Zoning Office shortly thereafter, requesting to continue the catering



business as a home occupation on the subject property, a permitted use under the applicable zoning [pursuant to Section 3.05.020(10) FCZR].

Section 7.09.020 of the zoning regulations, defines a home occupations as *“any use conducted entirely within the dwelling and carried on by the members of the family which use is clearly incidental and secondary to the dwelling for dwelling purposes and does not change the character thereof and in connection therewith are no commodities sold from the premises except that which is produced thereof, except as provided for in Section 5.06. Such uses may include, but are not limited to, art and/or photography studios, computer programming, insurance sales, and handicrafts provided that the use does not involve more than one-third of the total square footage of the dwelling. The conducting of a hospital, barbershop, beauty shop, tearoom, tourist home, animal hospital, or other traffic generating use shall not be deemed to be a home occupation.”* Section 5.06 provides further guidance on the performance standards a home occupation should meet. Certain zoning classifications – including “AG-40 Agricultural” - require a conditional use permit be obtained for a home occupation that utilizes an outbuilding or accessory structure, or employs more than one person at any given time other than members of the family residing on premise [Section 5.06.020(2)(A) and (B), FCZR]. As the catering business on the subject property meets both of these criteria, a conditional use permit was required even though a home occupation is listed as permitted in an AG-40 zone.

#### **F. Compliance With Public Notice Requirements**

Notification was mailed to property owners within 150 feet of the subject property on October 7, 2011, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the October 16, 2011 edition of the Daily Interlake.

#### **G. Agency Referrals**

Referrals were sent to the following agencies on September 13<sup>th</sup>, 2011:

- Flathead City-County Health Department
  - Reason: The property is currently served by an individual well and septic system that was reviewed and approved by the Environmental Health Department.
- Flathead County Road and Bridge Department
  - Reason: The proposed use may directly impact County infrastructure.
- Jim Chilton, Flathead County Solid Waste District
  - Reason: A commercial kitchen has waste disposal needs that may exceed what is typically required for a single family residence.
- Whitefish Rural Fire Department
  - Reason: The subject property is located within the Department’s service area/jurisdiction.
- Montana Department of Natural Resources and Conservation
  - Reason: The subject property is adjacent to State trust lands.

### **III. COMMENTS RECEIVED**

#### **A. Public Comments**

No written public comments have been received to date regarding the conditional use permit request. One (1) adjacent property owner contacted the Planning and Zoning Office following receipt of public notice to discuss the application, but did not express a position for or against the request. It is anticipated any individual wishing to provide public comment on the proposal will do so during the public hearing scheduled for November 1<sup>st</sup>, 2011. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

#### **B. Agency Comments**

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Glen Gray, Flathead County Sanitarian, Environmental Health Department
  - This facility has already been approved by this office and licensed to operate as a catering kitchen.
  - This office has no objection to the granting of a conditional use permit.
- Dave Prunty, Flathead County Road & Bridge Department
  - At this point the County Road Department does not have any comments on the request.
- James Chilton, Flathead County Solid Waste District
  - The applicant has addressed their disposal method; the District views no negative impact with solid waste issues at this time.
  - The District requests all solid waste generated at the proposed location be hauled by a private contractor. North Valley Refuse is the licensed (PSC) Public Service Commission Licensed hauler in this area.

### **IV. CRITERIA REQUIRED FOR CONSIDERATION**

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

#### **A. Site Suitability**

##### **i. Adequate usable space**

The subject property is roughly 32 acres in size, slightly below the minimum lot size required in an AG-40 zone; however, the parcel is considered legally non-conforming as it was created prior to the establishment of the Blanchard Lake zoning district November 15<sup>th</sup>, 1993. The existing single family residence is located toward on the west side of the property, along with many of the accessory structures listed previously in this report. The accessory structure housing the commercial kitchen sits on the south/southeast portion of the property, set back nearly 100 ft. from the Twin Bridges Road right-of-way. All structures on the property appear to meet the applicable setback requirements for both principal and accessory structures in an AG-40 district, including the

increased setback requirement for a County Road as well as the 20 ft. required setback from streams, rivers and unprotected lakes.

The combined square footage of all structures on the subject property totals approximately 8,200 sq. ft., or 0.2 acres. Lot coverage in an AG-40 zone is limited to 20% of the total area which, given the property's size would be approximately 28,000 sq. ft. As currently developed, the subject property is well under the maximum lot coverage restrictions imposed by the zoning. Additionally, all non-agricultural structures observed on the subject property appear to comply with maximum height restriction of 35 ft.

The site plan submitted by the applicant shows there is adequate space to accommodate parking anticipated for the employees of the catering business, in relative proximity to the outbuilding housing the catering kitchen. Parking and circulation will be discussed in greater detail in the following sections of this report.

**Finding #1** – The subject property appears suitable for the home occupation proposed because the existing structures appear to comply with the applicable setback requirements, lot coverage and height restrictions of the AG-40 zoning in place, and the site plan shows the property can adequately accommodate the parking and circulation necessary for the use requested.

**ii. Adequate access**

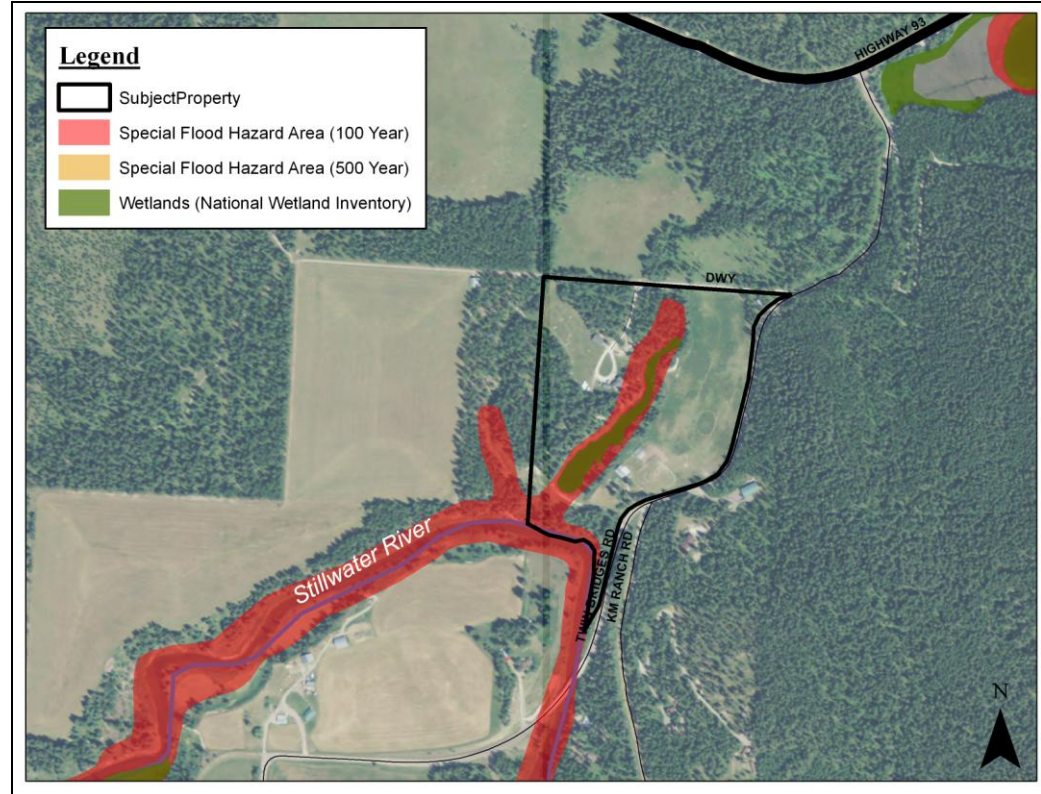
The subject property has existing access onto Twin Bridges Road, a state secondary highway, at two established locations. The single family residence is accessed using a private driveway on the very north end of the property, while the outbuilding housing the catering kitchen may be accessed by a separate driveway on the southeast corner of the property, almost directly across from the intersection of KM Ranch Road (as shown by Figure 2 above). As a state secondary highway, Twin Bridges Road is maintained by the Montana Department of Transportation and was recently re-paved, greatly improving the travel surface along this portion of the roadway. The road is located within a 60 ft. right-of-way and has generally good site distances between the Stillwater River and the road's intersection with U.S. Highway 93 to the north. Input received from MDT and included in the application materials indicates the catering business will not significantly impact the existing approach permits and is not anticipated to trigger re-review through that department.

**Finding #2** – There appears to be adequate access to and from the subject parcel onto Twin Bridges Road because the property has two existing driveways separating the residential and home occupation uses, and because the home occupation will not significantly impact the existing approaches or require a new approach permit issued through the Montana Department of Transportation.

**iii. Absence of environmental constraints**

The property is developed in a rural residential setting, evenly divided between open pasture and moderately forested areas. A small lake runs north-south through the property and has been mapped as a wetland area (according to the National Wetlands Inventory), and the Stillwater River forms the southernmost boundary of the tract. There is mapped 100-year floodplain associated with the lake and river, in addition to the wetland riparian areas shown in Figure 4 below. Based upon the site plan submitted by the applicant, it does not appear the location of the existing outbuilding is located within the special flood hazard or designated wetland areas. As there are no new structures proposed as part of this conditional use permit request, it is anticipated the home occupation (as proposed in this application) will not have any additional impact on the sensitive environmental areas identified on this property.

**Figure 4:** Environmental constraints affecting the subject property.



**Finding #3** – As proposed, the home occupation would not have any additional impact on designated floodplain, wetland and riparian habitat because there are no new structures proposed as part of the request, and because current development appears to have been located outside of these environmentally constrained areas.



## **B. Appropriateness of design**

### **i. Parking scheme**

Chapter 6 of the Flathead County Zoning Regulations does not address minimum parking requirements for home occupations or even catering businesses, nor are there comparable uses within the regulations that could provide guidance on parking requirements for a catering kitchen. Additionally, there are no performance standards or special conditions identified for parking located within an AG-40 district. Parking standards for restaurants, cafeterias and food and beverage establishments [Section 6.07.020 FCZR] require one parking space for each employee on maximum shift; in reviewing the zoning regulations, no uses require *more* than one parking space per employee, therefore it is reasonable to assume this is an acceptable standard by which to review the application.

The site plan shown by Figure 2 above delineates the location of the outbuilding and associated employee parking. As proposed, the parking area appears large enough to accommodate 8-10 cars at one time; this would be adequate based upon the eight (8) employees the applicant has stated may be working in the catering kitchen at any given time [according to item 2(D)(1) of the application materials]. Figure 5 below shows the employee parking area clearly demarcated on the subject property.

**Figure 5:** Employee parking area.



**Finding #4** – The proposed parking layout appears adequate because the parking area is able to accommodate an appropriate amount of parking based

upon the number of employees anticipated, and because there are no specific requirements or guidelines in the zoning regulations for parking associated with a home occupation and/or catering business.

**ii. Traffic circulation**

Vehicle traffic traveling to and from the outbuilding housing the commercial kitchen will utilize the south driveway only. This driveway directs traffic toward either the outbuilding or two existing barns, and the parking area is located between these two areas (refer to Figure 2). The parking area is wide enough to accommodate vehicles pulling into parking spaces (arranged at a 90 degree angle) and pulling out of these spaces, based upon the minimum lot dimensions identified in Appendix A of the zoning regulations. A small cul-de-sac located just north of the parking area, adjacent to the barns, is able to facilitate easy circulation and turnaround for larger vehicles such as horse trailers or a fire truck. The driveway also provides direct access to a two-car garage at the front of the outbuilding, for the easy loading and unloading of food and catering equipment.

**Figure 6:** Driveway/turnaround area (north of parking).



**Finding #5** – Vehicle circulation on the subject property appears to adequately accommodate traffic anticipated by utilizing the existing driveway to clearly and efficiently direct traffic toward the outbuilding’s garage/loading area, the employee parking area, or toward a cul-de-sac turnaround able to accommodate larger vehicles and/or emergency responders.

**iii. Open space**

As previously discussed, structure development on the subject property is currently well below the maximum lot coverage restriction of 20%, leaving ample open space available onsite. Over 30 acres of the subject property remain undeveloped and in a relatively open and natural state, with a small lake and wetland area as well as open pasture and forested areas throughout.

**iv. Fencing/screening**

Traditional post and rail fencing runs along the eastern boundary of the subject property fronting Twin Bridges Road, while natural vegetation provides occasional screening along this same stretch of roadway. No additional fencing or screening has been proposed by the applicant as part of this conditional use permit. There are no fencing or screening requirements specific to AG-40 zones found in the Flathead County Zoning Regulations. As the adjacent properties are similarly zoned for rural residential and agricultural uses, the zoning regulations do not require any fencing or screening to separate parcels (or uses) from one another [pursuant to Section 5.04 and 5.05 FCZR].

**v. Landscaping**

There are no landscaping or buffering requirements identified in the Flathead County Zoning Regulations for properties located in an AG-40 zone. The applicant is not proposing any landscaping on the subject property beyond what would be expected for a typical residential yard; some decorative landscaping has already been completed around the outbuilding structure itself, and the property has been seeded and will undergo general lawn maintenance annually.

**Finding #6** – Open space, fencing, screening and landscaping on the subject property appears adequate as it currently exists because there are no minimum requirements for fencing, screening or landscaping elements for properties zoned AG-40 and surrounded by similar zoning; and because the majority of the property remains undeveloped and in a relatively natural state.

**vi. Signage**

Pursuant to Section 5.11.040(1) of the Flathead County Zoning Regulations, properties zoned AG-40 Agricultural are permitted “*one (1) freestanding sign plus one (1) wall sign for each place of business; the sign area shall not exceed 40 sq. ft.*”, in addition to all exempt signage listed for all districts as well as eight (8) rural directional signs [located off-premise and meeting the definition and size requirements outlined in Section 7.18.060(16) FCZR]. Upon visit to the site, staff observed three signs on the subject property; one freestanding sign located at the northeast corner of the property where the residential driveway accesses Twin Bridges Road, and two signs attached to the fence on either side of the driveway providing access to the outbuilding. All three signs appear to be 10 sq. ft. or less in size, for a total of roughly 30 sq. ft. of signage onsite.



**Figure 7:** Fence sign located on the subject property.



Although the combined square footage of the signs falls under the limit imposed by the regulations, the number and type of signs does not. Based on the applicable definition found in Section 7.18.060(18) FCZR, a sign attached to a fence is considered a “wall sign”; therefore only one of the two fence signs would be permitted on the subject property, in addition to the free-standing sign located near the residential driveway access. This would not preclude the applicant from enlarging the sign to be located on the fence, so long as the combined square footage of the two signs permitted does not exceed 40 sq. ft.

**Finding #7** – Existing signage on the subject property currently complies with the applicable zoning regulations with regard to square footage but does not comply with regard to the number and type of signage on premise; however, the removal of one fence sign would adequately address this issue of noncompliance and bring the property into conformance with the AG-40 zoning in place.

**vii. Lighting**

The applicant has stated lighting on the outbuilding is typical of what is expected for residential structures. There are two entry lights on either side of the front door as well as a motion sensor light over the garage (see Figure 7 below). There are no exterior lights proposed for the driveway or parking area, nor is there lighting proposed for the signage.

The existing residential lighting does not appear to comply with Section 5.12 of the Flathead County Zoning Regulations requiring the hooding, screening or shielding of exterior lights and porch lamps to ensure the light will not be deleterious to adjoining properties. Pursuant to a recent zoning administrator interpretation dated August 17, 2011 that further clarifies this section of the regulations, exterior lighting must be hooded or shielded to prevent the light source from emitting or being seen at or above a plane horizontal to the ground [reference diagram of horizontal cut-off found in Section 3.44 of the zoning regulations].

**Figure 7:** Exterior lighting associated with outbuilding.



**Finding #8** – Lighting associated with the outbuilding/catering business would be acceptable because there is no additional lighting proposed to illuminate the driveway or parking area, and because existing exterior lighting would be required to comply with the exterior lighting standards found in zoning regulations and clarified by administrative interpretation within one year of the issuance of this conditional use permit.

### **C. Availability of Public Services and Facilities**

#### **i. Sewer**

The subject property is currently served by an individual onsite septic system. Public sewer facilities are not currently available in this area, nor are they anticipated to be available in the near future. Comment received from Flathead City-County Environmental Health Departments indicates the subject property

has undergone review and received approval to operate a commercial kitchen facility, as evidenced by septic permit #10-5599-N issued on June 21, 2011, obtained by planning staff from the Environmental Health Department during review. All septic permits require the Planning and Zoning Office to sign off on zoning compliance prior to issuance; it should be noted that the septic permit reviewed and approved by Planning and Zoning staff indicated this outbuilding was to be utilized as a “guest house” and gave no indication a commercial catering kitchen was being constructed (refer to septic permit application form included in materials).

**ii. Water**

The subject property currently utilizes an existing private well located onsite, as there are no public water utilities available to serve the property in the immediate area. It is anticipated the well has capacity to serve the proposed use, based on the existing water right document #30013977 issued on April 16, 2008.

**Finding #9** – The proposed use would have no impact on public water and sewer utilities because the subject property currently utilizes a private well and individual septic system which has been reviewed and received approval from the Flathead City-County Health Department.

**iii. Storm Water Drainage**

Stormwater drainage will continue to be managed onsite through absorption. Aside from the existing structures, there are no paved or otherwise impermeable surfaces that will increase the amount of stormwater runoff as a result of this proposal. The property is large enough, with a significant amount of open area remaining, that stormwater can be reasonably managed onsite.

**Finding #10** – The proposed method of stormwater management appears adequate because the subject property is large enough and remains predominantly undeveloped so as to direct, contain and absorb all runoff onsite.

**iv. Fire Protection**

The subject property is located within the Whitefish Rural Fire District and would be primarily served by the Whitefish Fire Department’s main station located 5.5 miles east in the City of Whitefish. Additionally, the West Valley Volunteer Fire Department maintains a substation approximately 3 miles south on Farm-to-Market Road, and could respond in the event of an emergency. Although solicited, no comment was received from the fire chief regarding the proposed use; however, the applicant did inquire with the Whitefish Fire Department prior to submitting the conditional use permit application, and included the Department’s comments for review.



**v. Police Protection**

The subject property is within the jurisdiction of and currently served by the Flathead County Sheriff's Department. Delayed response times may be anticipated in the event of an emergency due to the property's location in a rural area of the County.

**vi. Streets**

As previously discussed, the subject property has two existing approaches onto Twin Bridges Road, a paved public state secondary highway owned and maintained by the Montana Department of Transportation. Twin Bridges Road was recently resurfaced, significantly improving the condition of the roadway. MDT has indicated a revised approach permit for the driveway providing access to the catering business will not be necessary, as no significant change in traffic character is anticipated.

**Finding #11** – Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the Whitefish Rural Fire District and could be served by the Whitefish Department's main station or the West Valley Department's substation in the event of an emergency; and because the property is currently served by the Flathead County Sheriff's Department and has direct access onto a state secondary highway that is in good condition and can adequately accommodate the limited traffic that may be anticipated as a result of the catering business.

**D. Immediate Neighborhood Impact**

**i. Excessive traffic generation**

The conditional use permit requested is for the operation of a catering only, and does not contemplate hosting cooking classes, holding weddings or any other event on the subject property. Vehicle traffic generated by the catering business will therefore be limited to the comings and goings of the catering staff, which can vary depending on the day of the week as well as the season. The application states there are typically no more than eight (8) employees working in the catering kitchen at any given time, and estimates an additional twenty (20) trips per day (on average) to and from the site as a result of the proposed use. Section 5.06.020(1)(E) specifically states a home occupation shall not *"generate pedestrian or vehicle traffic in excess of what is characteristic of the neighborhood in which it is located. Vehicle traffic would not be increased by more than one (1) at a given time or by more than eight (8) all day."* It is likely the catering business will result in vehicle traffic that exceeds these limitations, based on the number of employees required to work in a commercial catering kitchen. However, traffic counts recorded for Twin Bridges Road south of U.S. Highway 93 averaged 1380 trips per day in 2010 [Montana Department of Transportation Traffic Data Collection and Analysis, Site ID# 15-4-5]. Twenty additional trips per day would increase traffic volume on Twin Bridges Road by approximately 1.5%; this may be acceptable given the current road condition and level of service.

**Finding #12** – Daily traffic resulting from the catering business is expected to exceed the amount of traffic characteristic of a rural residential area, in violation of the traffic limitations imposed on home occupations by the zoning regulations; however, the amount of traffic may be considered acceptable given the current amount of traffic along Twin Bridges Road and the improved condition of the roadway itself.

**ii. Noise or vibration**

All activity related to the catering business will be conducted indoors in the commercial kitchen and should not result in excessive noise generation. Commercial-grade exhaust fans provide ventilation from the kitchen to the outdoors, and may produce minimal noise when in use. It is not anticipated this noise will have a significant or negative impact on the surrounding neighborhood, given the size of the lots, natural vegetative buffers and the distance between development.

**iii. Dust, glare or heat**

Excessive dust, glare or heat is not anticipated as a result of the home occupation proposed. Although the parking and driveway areas will remain gravel, traffic will not be traveling at speeds likely to create dusty conditions, and irrigation is available onsite to abate infrequent dust as necessary. Heat is often a byproduct of cooking activities, but as these activities will be conducted entirely inside the building, no impacts to the surrounding areas are anticipated.

**iv. Smoke, fumes, gas, or odors**

The proposed use will not create adverse smoke, fumes or gas. Food odors can be anticipated when the catering kitchen is in operation, and may be expelled through the exhaust fans serving the kitchen; however, these types of odors should not have a significant or negative impact on the adjoining landowners.

**Finding #13** – The proposed use is anticipated to have a minimal impact on the neighboring properties because the catering business will not create excessive noise, vibration, dust, glare, heat, smoke, fumes, gas or other odors that will negatively affect the adjoining landowners.

**v. Inappropriate hours of operation**

The application states the hours of operation will typically be limited to normal business hours; however, there may be times when employees must work later than 5:00 PM, as well as on occasional weekends. These longer hours are most likely to occur on weekends, and the frequency will depend on the season and timing of events. Based on the information provided by the applicant, it is reasonable to conclude that hours of operation for a catering business are generally between 8:00 AM and 10:00 PM, Sunday through Saturday. While these operating hours may be perceived as out of character with the district, it is important to note that all activities will be occurring inside the building, and for

much of the time the catering business is in ‘operation’, employees will be providing service off-premise.

**Finding #14** – Proposed hours of operation appear out of character with the strict agricultural and residential nature of the district, but may be considered acceptable because the activities occurring onsite will all take place inside, and because much of the operating time will be spent off-site by staff assisting in catering events.

## **V. SUMMARY OF FINDINGS**

1. The subject property appears suitable for the home occupation proposed because the existing structures appear to comply with the applicable setback requirements, lot coverage and height restrictions of the AG-40 zoning in place, and the site plan shows the property can adequately accommodate the parking and circulation necessary for the use requested.
2. There appears to be adequate access to and from the subject parcel onto Twin Bridges Road because the property has two existing driveways separating the residential and home occupation uses, and because the home occupation will not significantly impact the existing approaches or require a new approach permit issued through the Montana Department of Transportation.
3. As proposed, the home occupation would not have any additional impact on designated floodplain, wetland and riparian habitat because there are no new structures proposed as part of the request, and because current development appears to have been located outside of these environmentally constrained areas.
4. The proposed parking layout appears adequate because the parking area is able to accommodate an appropriate amount of parking based upon the number of employees anticipated, and because there are no specific requirements or guidelines in the zoning regulations for parking associated with a home occupation and/or catering business.
5. Vehicle circulation on the subject property appears to adequately accommodate traffic anticipated by utilizing the existing driveway to clearly and efficiently direct traffic toward the outbuilding’s garage/loading area, the employee parking area, or toward a cul-de-sac turnaround able to accommodate larger vehicles and/or emergency responders.
6. Open space, fencing, screening and landscaping on the subject property appears adequate as it currently exists because there are no minimum requirements for fencing, screening or landscaping elements for properties zoned AG-40 and surrounded by similar zoning; and because the majority of the property remains undeveloped and in a relatively natural state.



7. Existing signage on the subject property currently complies with the applicable zoning regulations with regard to square footage but does not comply with regard to the number and type of signage on premise; however, the removal of one fence sign would adequately address this issue of noncompliance and bring the property into conformance with the AG-40 zoning in place.
8. Lighting associated with the outbuilding/catering business would be acceptable because there is no additional lighting proposed to illuminate the driveway or parking area, and because existing exterior lighting would be required to comply with the exterior lighting standards found in zoning regulations and clarified by administrative interpretation within one year of the issuance of this conditional use permit.
9. The proposed use would have no impact on public water and sewer utilities because the subject property currently utilizes a private well and individual septic system which has been reviewed and received approval from the Flathead City-County Health Department.
10. The proposed method of stormwater management appears adequate because the subject property is large enough and remains predominantly undeveloped so as to direct, contain and absorb all runoff onsite.
11. Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the Whitefish Rural Fire District and could be served by the Whitefish Department's main station or the West Valley Department's substation in the event of an emergency; and because the property is currently served by the Flathead County Sheriff's Department and has direct access onto a state secondary highway that is in good condition and can adequately accommodate the limited traffic that may be anticipated as a result of the catering business.
12. Daily traffic resulting from the catering business is expected to exceed the amount of traffic characteristic of a rural residential area, in violation of the traffic limitations imposed on home occupations by the zoning regulations; however, the amount of traffic may be considered acceptable given the current amount of traffic along Twin Bridges Road and the improved condition of the roadway itself.
13. The proposed use is anticipated to have a minimal impact on the neighboring properties because the catering business will not create excessive noise, vibration, dust, glare, heat, smoke, fumes, gas or other odors that will negatively affect the adjoining landowners.
14. Proposed hours of operation appear out of character with the strict agricultural and residential nature of the district, but may be considered acceptable because

the activities occurring onsite will all take place inside, and because much of the operating time will be spent off-site by staff assisting in catering events.

## **VI. CONCLUSION**

Upon review of this application, the request to allow the use of an outbuilding and non-familial employees as part of a home occupation (catering business) on the subject property is generally supported by the review criteria and 11 of the 14 Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-11-06 as Findings of Fact and approve the conditional use permit, the following 7 conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts have been met:

## **VII. CONDITIONS**

1. The home occupation proposed on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below. The application specifically requested a CUP to allow for the use of an outbuilding and non-familial employees as part of a home occupation - a catering business; the holding of cooking classes, weddings or other events was not contemplated as part of this review and these uses are not permitted on the subject property as part of this approved permit [FCZR Section 2.06.010].
2. Changes or modifications to the approved use and/or site plan shall not be affected unless specifically reviewed and approved by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
3. The outbuilding housing the home occupation shall continue to conform with all applicable bulk and dimensional requirements of the "AG-40 Agricultural" zoning in place, including but not limited to setbacks, building height and lot coverage [FCZR Section 3.05.040].
4. All exterior lighting on the subject property shall adhere to the performance standards set forth in the Flathead County Zoning Regulations [FCZR Section 5.12]. Existing lighting shall be shielded to prevent the light source from emitting or being seen at or above a plane horizontal to the ground, in conformance with the Zoning Administrator's interpretation of these regulations, within one year of the date of issuance of this permit.
5. Notarized certification that the home occupation (catering business) is in conformance with the provisions of Section 5.06 of the Flathead County Zoning Regulations, and is operating as reviewed and approved by the Board of Adjustment, shall be submitted to the Flathead County Zoning Administrator pursuant to Section 5.06.010 FCZR.
6. Signage on the subject property shall be limited to one (1) freestanding sign plus one (1) wall sign, the combined area of which shall not exceed 40 sq. ft.; in addition to exempt signage [pursuant to Section 5.11.010 FCZR] as well as eight (8) rural directional signs [located off-premise and meeting the definition and size requirements outlines in Section 7.18.060(16) FCZR], in conformance with Section 5.11.040(1) of the Flathead County Zoning Regulations.

7. Hours of operation for the proposed home occupation (catering business) shall be limited to 8:00 AM – 10:00 PM daily.

Planner: AM